

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JASON SHEPPARD,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Civ. No. 14-1557</b>
<b>vs.</b>	)	<b>Crim. No. 10-119</b>
	)	
<b>UNITED STATES OF AMERICA.</b>	)	
	)	

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Petitioner Jason Sheppard's third Motion under 28 U.S.C. §2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody. The basis for this § 2255 Motion is that although his original § 2255 Motion still is on appeal with the United States Court of Appeals for the Third Circuit, "due to [United States Deputy Attorney General James] Cole's [October 14, 2014] memorandum . . . shows, Sheppard plainly and unambiguously has received permission to appeal from the U.S. Department of Justice and no permission shall now be required from the 3<sup>rd</sup> Circuit. This change in controlling law makes this motion classified as a new filing and not a successive one and therefore, Sheppard's battle was overcome on 10/14/14." Third § 2255 Motion, p. 4.


Contrary to Petitioner's argument, this most recent § 2255 Motion is a successive § 2255 Motion and said memorandum from Deputy United States Attorney General Cole does not change the jurisdictional requirements a petitioner must meet in order to file a successive § 2255 motion. Therefore, for the same reason we denied Petitioner's Second §2255 Motion on September 30, 2014, we deny his third § 2255 Motion: "[t]his motion is a . . . successive § 2255 petition. The Court does not have jurisdiction over such a motion without prior Third Circuit approval. Such approval has not been given in this case." See Petitioner's second § 2255 Motion, p. 1 (citing 28

U.S.C. § 2255(h)). Moreover, as previously held with respect to his second § 2255 Motion, “because jurists of reason would not debate this procedural ruling, a certificate of appealability will not issue.” Id. (citing Walker v. Frank, 56 Fed. App’x 577,579 (3d Cir. 2003)). Finally, as also held with respect to his second § 2255 Motion, “Petitioner is advised that he has the right to appeal this Order denying his Motion, see 28 U.S.C. § 2253(a), and that our denial of a certificate of appealability does not prevent him from doing so, as long as he also seeks a certificate of appealability from the court of appeals. See Federal Rule of Appellate Procedure 2.” Id.

ORDER

AND NOW, this 14th day of November, 2014, it is HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner’s Third Motion under 28 U.S.C. § 2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody is DENIED.

It is further hereby ORDERED, ADJUDGED AND DECREED that the Clerk of Court shall mark the civil action, Civ. No. 14-1557, CLOSED.

  
Maurice B. Cohill, Jr.  
Senior District Court Judge

cc: Jason Sheppard  
32102-068  
NEOCC  
2240 Hubbard Rd.  
Youngstown, OH 44505